

**City of Berlin, NH
Zoning Board of Adjustment
Meeting Minutes
April 26, 2021**

Members Present via Zoom: Chair Dana Hoyt, Nathan Morin, Gregg Marrer, and Tiffany Hale

Members Excused: None

Others Present via Zoom: Pam Laflamme, Community Development Director; Michel Salek, Building Inspector/Zoning Officer; Roland and Susan Cloutier, Applicants; Shawn Marquis, abutter

The meeting was called to order at 6:30 pm.

Roll call was taken. Chair Hoyt read into the record the emergency information regarding Covid19 and online meetings.

Chair Hoyt read the following statement:

As Chair of the Zoning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means: We are utilizing Zoom for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 646-558-8656, meeting ID **84541123699**, Passcode **263014**, or by clicking on the Zoning Board agenda on the City's website, www.berlinnh.gov.

Providing public notice of the necessary information for accessing the meeting: We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Board at www.berlinnh.gov.

Providing a mechanism for the public to alert the public body during the meeting if there are problems with access: If anybody has a problem, please call 752-8587 or email at plaflamme@berlinnh.gov.

Adjourning the meeting if the public is unable to access the meeting: In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

A Roll Call was taken:

Dana Hoyt – present – his wife was in the house

Nathan Morin – present - alone

Gregg Marrer – present – alone with his dog

Tiffany Hale – present – alone in the room

Approval of March 2021 Minutes:

Ms. Hale made a motion to approve the minutes as presented. Motion was seconded by Mr. Morin. A roll call vote was taken of each member by Mr. Marrer, clerk of the board and all members voted in favor, the motion to approve the March 2021 minutes passed.

Chair Hoyt let the applicant know that they were not a full board tonight as they were missing Mr. Boucher. If the board should end in tie vote, that is a denial. The applicants chose to move ahead with the meeting.

Chair Hoyt then moved to the Reading of Zoning Board of Adjustment Rules:

The Building Inspector and/or Zoning Officer is required to follow the strict letter of the Ordinance while the Board of Adjustment is required to follow the intent and spirit of the Ordinance. Our function is to hear both sides, use judgment within the Ordinance, and render a decision in writing, within a reasonable time. The main purpose of the public hearing is to allow property owners and anyone concerned with the case to testify how the proposed variance (or special exception) will affect them and their property. The reason for these hearings is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against the appeal. While the evidence may be in the form of an opinion rather than an established fact; it should support the grounds which the board must consider when making a determination. During the hearing, all persons wishing to speak will raise their hands, be recognized, give their names, address and interest in the case, then be sworn. If you wish, it is your right to be represented by counsel.

Please address all your questions and statements to the Board and not to any individual in this room. In order to give everyone a chance, no one will be allowed to speak a second time until all persons have been given a chance to speak for the first time...and the petitioner will be given the last word. If you feel any member of this

board is prejudiced for or against your case, please let me know and if the facts warrant it, they will abstain from participating or voting in your case. I want you to know that although the board is to be impartial, it must abide by the intent and spirit of the ordinance and cannot rewrite the ordinance to please any particular individual.

Case 02-21: Roland and Susan Cloutier, 881 Fourth Avenue, Tax Map 120, Lot 3
Special Exception

Mr. Marrer read the request into the record.

Request: Case #02-21. The request for a Special Exception, if approved, would allow a smaller than required side yard setback for accessory buildings and instead be six feet from the side property line at the property, 881 Fourth Avenue, Berlin NH 03570, Tax Map 120 Lot 3, which would which is allowed by Special Exception as stated in the Residential Two Family Zone by Article VII Section 17-74 3.c of the Berlin Zoning Ordinance.

Chair Hoyt asked who was here to present the first case. Roland and Susan Cloutier property owners of 881 Fourth Avenue, Tax Map 120, Lot 3 were present to state their case.

Applicants Roland and Susan Cloutier were sworn in by Chair Hoyt.

Mr. Cloutier explained to the board that the intent of their application was to construct a garage behind their house, single story, two car garage and that the new structure would come within ten feet of the side yard property line closest to Wight Street at six feet.

Chair Hoyt asked if anyone had any questions.

Chair Hoyt again asked if anyone had other questions or wished to speak in favor. Ms. Laflamme read the following into the record from Roland & Cheryl Pinette:

Community Development Director Pamela Laflamme, Chairman Reverend Dana Hoyt, and the Berlin Zoning Board of Adjustment:

Cheryl Pinette and I support the granting of a Special Exception by the Berlin ZBA to Roland and Susan Cloutier, 881 Fourth Avenue, Berlin, NH as permitted per Article VII, Section 17-74, 3.c f the City of Berlin Zoning Ordinance.

We submit this testimony to be presented at the Public Hearing scheduled for Monday, April 26, 2021 at 4:00 PM as provided by our right as abutters and owners of 868 Fourth Avenue, Berlin, NH.

Sincerely, Roland and Cheryl Pinette

Chair Hoyt asked if anyone else was present to speak in favor of the application. Shawn Marquis indicated he had a question. Chair Hoyt swore Mr. Marquis in. Mr. Marquis asked to see a drawing of the property layout and was curious how close it would come to his fence/property line which is directly behind the parcel. A layout was shown and there will be a 12 foot setback between the garage and the fence. Mr. Marquis shared his thanks for the information and then shared his support. Mr. Marquis then left the meeting.

Chair Hoyt asked if anyone was present who wished to speak in opposition to the application, no one spoke.

Chair Hoyt asked the applicants if they had any final words. Mr. Cloutier shared he had spoken to both the other abutters, Steve Binette and Roland Martin and they are both supportive of the special exception. Chair Hoyt then summarized the case which was request for a Special Exception, if approved, would allow a smaller than required ten foot side yard setback for accessory buildings and instead be approximately six feet from the side property line at the property, 881 Fourth Avenue, Berlin NH 03570, Tax Map 120 Lot 3, which is allowed by Special Exception as stated in the Residential Two Family Zone by Article VII Section 17-74 1.b and 3.c of the Berlin Zoning Ordinance.

Chair Hoyt asked if anyone disputed the accuracy of the case summary. No one spoke.

Public Hearing Closed. Chair Hoyt closed the public hearing at 6:47PM and advised the applicant that a decision would be made that evening and a letter of decision would be sent. They were also welcome to wait and be present to hear the Board's deliberations and decision. They were informed that if anyone chose to appeal the decision, the appeal must be filed within thirty days.

Case #02-21 Deliberation

Chair Hoyt did a review of the criteria for the granting of a special exception as laid out in the Zoning Ordinance and ran through the checklist with the board. He asked for the board to speak up if they disagreed with any of the criteria noting that the property is an appropriate site; it would not impact property values; there would be no nuisances to neighbors; no impacts to traffic; no material effects on views; no impact to the general public or general welfare; the board agreed that there were no issues in the checklist.

Chair Hoyt asked the board if they felt there needed to be any conditions and went over that checklist as well, none of the board members felt it would be necessary.

Chair Hoyt asked for final comments or for someone to make a motion.

Case #02-21 Decision

Ms. Hale made a motion to grant a Special Exception in Case #02-21 to allow a

smaller than required ten foot side yard setback for an accessory building and instead to allow an approximately six feet from the side property line at the property, 881 Fourth Avenue, Berlin NH 03570, Tax Map 120 Lot 3. Mr. Morin seconded the motion, the Board took a roll call vote of each member, and all members present voted unanimously in favor of the motion, motion passed 4-0.

Mr. and Mrs. Cloutier thanked the board and left the meeting.

Board Officer Positions: April is the month to vote on all of the leadership positions, chair, vice chair, and clerk. All current officers indicated a willingness to continue serving.

Mr. Morin made a motion to nominate Dana Hoyt to serve another term as chair, the motion was seconded by Mr. Marrer who took a roll call vote of the board, and all members voted in favor, motion passed.

Ms. Hale made a motion to nominate Mr. Morin as vice chair, seconded by Mr. Marrer, who again took a roll call vote of the board, all members voted in favor, motion passed.

Ms. Hale made a motion to nominate Mr. Marrer as clerk, seconded by Mr. Morin. Mr. Marrer took a roll call vote of the board and all members voted in favor.

Member Comments: Board members shared their appreciation with staff for the timeliness of board packets and the maps and diagrams to go along with the applications.

Other Business:

There being no further business to come before the Board, Ms. Hale made a motion to adjourn, seconded by Mr. Marrer. All members present voted in the affirmative on a roll call vote and the meeting adjourned at 6:57pm.

Respectfully submitted, Pamela Laflamme

** Note: These minutes are unofficial until they have been accepted by the Zoning Board of Adjustment by motion.*